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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,696	02/20/2004	William Chen	API90HO	1789
20178 7590 04/07/2009 EPSON RESEARCH AND DEVELOPMENT INC INTELLECTUAL PROPERTY DEPT 2580 ORCHARD PARKWAY, SUITE 225 SAN JOSE, CA 95131				
EXAMINER				
RAO, ANAND SHASHIKANT				
ART UNIT		PAPER NUMBER		
2621				
MAIL DATE		DELIVERY MODE		
04/07/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action**  
**Before the Filing of an Appeal Brief**

**Application No.**

10/783,696

**Applicant(s)**

CHEN, WILLIAM

**Examiner**

Andy S. Rao

**Art Unit**

2621

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 20 March 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-9 and 11-19.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/Andy S. Rao/  
Primary Examiner, Art Unit 2621

Continuation of 3. NOTE: With regards to claims 1-4, and 16-19, the Examiner notes that while "unless a motion vector..." limitations of independent claims 1 and 16 define the motion metric, and appear to overcome the Pejhan reference, the Examiner notes that since the applied reference is interested in preserving/constructing a motion information field (Pejhan: column 6, lines 50-67; column 7, lines 1-7), a further search/consideration of relevant art with regards to known "motion metrics" is required. Also, in further consideration of the points discussed in the interview of 3/13/09, the Examiner would also like to consider the "luminance coefficient truncation" as implemented by a zig-zag index of the recited independent claims with regards the relevant art, as well. Also, the Examiner notes that with regards to claims 5-9, the Examiner notes that while "...combination of settings..." of the variable parameters specifies clearly connotes a collection of dynamically alterable parameters as table 2 of the specification, the Examiner remains skeptical that Pejhan's frame rate coding method would fail to implement such feature, especially since it discloses the generation of a "coding" mode Information field (Pejhan: column 7, lines 5-37), and clearly associates frame rate selection with coding mode determination based on multiple parameters (Pejhan: column 5, lines 1-6; column 6, lines 45-52), contrary to Applicant's assertions (Non entered Amendment After Final Submitted on 3/20/09: page 7, lines 20-33; page 8, lines 1-3). The Examiner would further note that while the Pejhan might be removed as an anticipatory reference, with regards to the "combination of settings" limitations of the claims, the Examiner notes that Pejhan may still remain applicable under 35 USC 103(a) particularly in light of the recently rendered KSR decision. See KSR International CO. v TeleTex Inc., (82 USPQ2d 1385, 1395-1397, 2007). In particular, the Examiner notes that this limitation may represent nothing more than the "obvious to try" choosing from a finite number of identified, prediction solutions, with a reasonable expectation of success rationale, wherein each of the combinations represents one of the finite sets. Since, the Examiner would need to further consider this limitation, and conduct a further search/consideration of the relevant art, the Amendment in its entirety will not be entered.